IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.
Income Tax Application No.119 of 2002

The Commissioner of Income-tax .. Applicant
v/s.
M/s.Garware Nylons Ltd. .. Respondent

Mr.Ashok Kotangale i/by Mr.H.D.Rathod for applicant.

Mr.Vishal Khanawalkar i/by Mr.Kedar Dighe for Official Liquidator.

CORAM : H.L. GOKHALE &
J.P. DEVADHAR, JJ.

DATED : 19th December 2006

P.C. :

1. Heard Mr.Kotangale in support of this Application. Mr.Khanawalkar appearing for the Official Liquidator informs that the respondent-Company is in liquidation and the Official Liquidator is incharge thereof. He submits that the Liquidator ought to have been joined and leave of the Court ought to be obtained.

2. However, the question, which is sought to be raised by the Revenue in the present matter, is covered in favour of the assessee. The question sought to be raised is as follows:-

" Whether in the facts and circumstances

of the case the Tribunal was right in law in holding that building under construction, machinery under installation and capital work in progress should be included in the computation of the capital employed under Section 80 J? "

This question has been decided in favour of the assessee in the case of **Lohia Machine Tools reported in 152 ITR 308** for allowing the deduction under Section 80J as claimed by the assessee. In view thereof, the Application is dismissed.

(H.L. GOKHALE, J.)

(J.P. DEVADHAR, J.)